

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Reid MacCluggage and the Day
Publishing Company.

FINAL DECISION

Complainant

Docket #FIC84-249

against

May 22, 1985

City of New London, the
New London City Council and
the City Manager of the City
of New London.

Respondents

The above captioned matter was heard as a contested case on March 8, 1985 at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record the following facts are found:

1. The respondent's are a public agencies within the meaning of §1-18a(a), G.S.

2. By letter dated November 7, 1984 the complainant made a request of the respondent city manager for "a copy of the preliminary report prepared by Captain Richard H. West in the matter involving Police Chief Sloan's automobile accident and the subsequent charges of brutality."

3. By letter dated November 15, 1984 the respondent city manager denied the complainant's request for records on the ground that the report was not a public document and should not be opened to public inspection pursuant to §1-19(b)(4), G.S.

4. At hearing, C. Robert Satti, State's Attorney for the Judicial District of New London, was granted permission to participate as an intervenor pursuant to §1-21j-28 of the Regulations of Connecticut State Agencies.

5. It is found that on or about October 20, 1984, Donald R. Sloan, the chief of police of the City of New London, was involved in an automobile accident. The driver of the other car in the accident was Brian Cosgrove.

6. Cosgrove was arrested in connection with said accident and subsequently alleged that he was physically abused at the New London Police Station during his detention the accident.

7. On October 24, 1984, as a result of Cosgrove's allegations, the respondent city manager ordered an investigation by the police department into the happenings at the accident scene and at police headquarters.

8. On October 30, 1984, the respondent city manager forwarded to the police department a letter dated October 26, 1984 from Cosgrove's counsel.

9. The October 26, 1984 letter from Cosgrove's counsel complained of physical abuse of Cosgrove by the police and requested the preservation of evidence. The letter stated that "an application for review of a complaint of police misconduct" would be filed. However, no such application was filed as of the date of hearing.

10. An investigation into Cosgrove's allegations of police misconduct was conducted by Captain Richard West of New London Police Department.

11. A report into said allegations was prepared by Captain West and considered by the respondent city council and the respondent city manager on November 2, 1984.

12. By letter dated November 6, 1984, counsel for Vali Moran, a woman allegedly injured in the subject accident, informed the respondent city manager that his client held the city liable for the negligence of one of its agents. The letter requested that the matter be turned over to the city's attorney or insurance carrier.

13. During a November 13, 1984 meeting the respondent city council's administration committee referred Captain West's report to the State's Attorney's office for further review.

14. No evidence was presented that release of the report would prejudice a prospective law enforcement action or reveal the identity of otherwise unknown informants.

15. The respondent city manager retained his copy of the report.

16. The respondents claim that the report on the investigation of Cosgrove's allegations is exempted from disclosure by §1-19(b)(4), G.S.

17. It is found that the respondents received are involved in no pending claim or litigation in regard to Cosgrove.

18. It is found that Captain West's report does not pertain to the claim of Vali Moran.

19. It is found that Captain West's report is evidentiary and does not pertain to strategy or negotiations regarding any pending claims or litigations before the respondents.

20. It is concluded that the requested reported by Captain West pertains to neither strategy nor negotiations with respect to any pending claim or litigation within the meaning of §1-19(b)(4), G.S.

21. The respondents also claimed that the report is a preliminary draft, not subject to disclosure pursuant to §1-19(b)(1), G.S.

22. It is found that the report is an interagency memorandum or report comprising part of the process by which governmental decisions and policies are formulated within the meaning of §1-19(c), G.S.

23. It is concluded that the report is not exempted from disclosure by §1-19(b)(4) or 1-19(b)(1), G.S.

24. It is found that the report is a public record within the meaning of §§1-18a(d) and 1-19(a), G.S. and is subject to public disclosure pursuant to §§1-15 and 1-19(a), G.S.

The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint.

1. The respondent city manager shall forthwith provide the complainant with a copy of the report prepared by Captain West in the matter involving allegations of police misconduct in the detention of Brian Cosgrove.

Approved by order of the Freedom of Information Commission at its regular meeting of May 22, 1985.



Mary Jo Jelicoeur
Clerk of the Commission